

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 350

Introduced by Lautenbaugh, 18.

Read first time January 15, 2009

Committee: Government, Military and Veterans Affairs

A BILL

1 FOR AN ACT relating to industrial areas; to amend sections 13-1111,
2 13-1112, 13-1113, 13-1114, 13-1115, 13-1116, 13-1117,
3 13-1118, 13-1119, 13-1120, and 13-1121, Reissue Revised
4 Statutes of Nebraska; to change provisions relating to
5 real estate tracts and the designation of industrial
6 areas as prescribed; and to repeal the original sections.
7 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 13-1111, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 13-1111 As used in sections 13-1111 to 13-1120, unless
4 the context otherwise requires: (1) Industrial area ~~shall mean~~
5 means a tract of ~~land~~ real estate used or reserved for the
6 location of industry, except that such ~~land~~ real estate may be
7 used for agricultural purposes until the use is converted for
8 the location of industry as set forth in sections 13-1111 to
9 13-1120; and (2) industry ~~shall mean~~ means (a) any enterprise
10 whose primary function, based on total annual gross receipts,
11 is to manufacture, process, assemble, or blend any agricultural,
12 manufactured, mineral, or chemical products; (b) any enterprise
13 that has as its primary function that of ~~storing,~~ warehousing,
14 or distributing, and specifically excluding those operations whose
15 primary function is to directly sell to the general public, any
16 agricultural, manufactured, mineral, or chemical products; or (c)
17 any enterprise whose primary function is to research in connection
18 with any of the foregoing, or primarily exists for the purpose of
19 developing new products or new processes, to develop new products
20 or new processes, or improving to improve existing products or
21 known existing processes concerning agricultural, manufactured,
22 mineral, or chemical products. Industry does not include any
23 enterprise involved in the retail or sale of its service, product,
24 or process directly to the general public.

25 The owner or owners of any contiguous tract of real

1 estate containing twenty acres or more, no part of which is within
2 the boundaries of any ~~incorporated city or village,~~ municipality,
3 except cities of the metropolitan or primary class, may file or
4 cause to be filed with the county clerk of the county in which the
5 greater portion of such real estate tract is situated if situated
6 in more than one county, an application requesting the county board
7 of such county to designate such contiguous real estate tract as an
8 industrial area under sections 13-1111 to 13-1120.

9 Sec. 2. Section 13-1112, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 13-1112 Upon filing the petition under the provisions of
12 section 13-1111, the county clerk, or if the real estate tract
13 is situated in more than one county, the county clerk of the
14 county having the greater portion of such real estate tract, shall
15 notify such municipal legislative bodies in whose area of zoning
16 jurisdiction an industrial tract is located in whole or in part
17 as shall have developed a comprehensive development plan and shall
18 be exercising zoning jurisdiction in the area concerned. Such
19 notification shall request approval or disapproval by the municipal
20 legislative body of the designation of such tract within thirty
21 days after receipt of such notification, which approval may be
22 conditioned upon terms agreed to between the ~~city~~ municipality and
23 county. The designation of any real estate tract as an industrial
24 area shall be in compliance with the zoning ordinances, subdivision
25 regulations, and appropriate ordinances and regulations of such

1 ~~city or village~~ municipality. If formal reply to the notification
2 of the county board's intention to designate such tract as an
3 industrial area is not received within thirty days, the county
4 board shall construe such inaction as approval of such designation.

5 Sec. 3. Section 13-1113, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 13-1113 Upon filing the petition, the county clerk, or,
8 if the real estate tract is situated in more than one county, the
9 county clerk of the county having the greater portion of such real
10 estate tract, shall designate and endorse thereon a day for the
11 hearing and determination of the petition by the county board of
12 such county which date shall not be less than thirty days nor more
13 than ninety days subsequent to the filing of said the petition. The
14 county clerk shall publish a notice once each week three successive
15 weeks in ~~some~~ a newspaper published and of general circulation in
16 the county or counties in which the real estate tract is located
17 and, if no newspaper is published in the county or counties, such
18 notice shall be published in ~~some~~ a newspaper having a general
19 circulation therein. The notice shall state the time and place of
20 hearing and the ~~land~~ real estate tract affected thereby.

21 Sec. 4. Section 13-1114, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 13-1114 At the time fixed in the notice or on any
24 adjourned day thereafter, any person interested may appear and be
25 heard at a public hearing before the county board of the county

1 in which the petition is filed. After such hearing, if the county
2 board shall find from the evidence produced that (1) such real
3 estate tract is suitable for use as an industrial area, (2) it will
4 be generally beneficial to the community, and (3) the owners of
5 all the land embraced therein have consented to such designation,
6 such board shall designate such real estate tract as an industrial
7 area and cause a certified copy of such order to be filed and
8 recorded in the offices of the county assessor and the register
9 of deeds of the county or counties in which the real estate tract
10 is situated. If such real estate tract is located in whole or in
11 part within an unincorporated area over which any ~~city or village~~
12 municipality exercises zoning control, the designation of such real
13 estate tract as an industrial area must first be approved by the
14 municipal legislative body.

15 Sec. 5. Section 13-1115, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 13-1115 Upon designation of such real estate tract as an
18 industrial area by the county board of the county in which the
19 petition is filed, such designated area shall thereupon be used or
20 reserved for the location of industry. Such ~~land~~ real estate tract
21 may be used for agricultural purposes until the use is converted
22 for the location of industry as set forth in sections 13-1111
23 to 13-1120. If such real estate tract has a an assessed taxable
24 valuation of more than ~~two hundred eighty-six thousand five million~~
25 dollars, it shall not be subject to inclusion within the boundaries

1 of any incorporated city of the first or second class or village,
 2 except that such real estate tract regardless of taxable valuation
 3 may be annexed if (1) it is located in a county with a population
 4 in excess of ~~one hundred~~ ten thousand persons, ~~and the city or~~
 5 ~~village did not approve the original designation of such tract as~~
 6 ~~an industrial area pursuant to section 13-1112,~~ (2) the annexation
 7 is stipulated in the terms and conditions agreed upon between
 8 the county and the ~~city or village~~ municipality in any agreement
 9 entered into pursuant to section 13-1112, or (3) the owners of a
 10 majority in value of the property in such real estate tract as
 11 shown upon the last preceding county assessment roll consent to
 12 such inclusion in writing or petition the ~~city council or village~~
 13 ~~board~~ municipality to annex such area.

14 Sec. 6. Section 13-1116, Reissue Revised Statutes of
 15 Nebraska, is amended to read:

16 13-1116 During the period any area is designated as
 17 an industrial area as provided by sections 13-1111 to 13-1120,
 18 the county board in which the greater area of the real estate
 19 tract is located shall have exclusive jurisdiction for zoning and
 20 otherwise regulating the use of the industrial area in such a way
 21 as to confer upon the owners and users thereof the benefits of a
 22 designated real estate tract to be held and reserved for industrial
 23 purposes only. Such ~~PROVIDED,~~ ~~such~~ authority shall not be granted
 24 to the county board if the zoning of such designated area is within
 25 the jurisdiction of any ~~city or village~~ municipality.

1 Sec. 7. Section 13-1117, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 13-1117 During the time any real estate tract is
4 designated as an industrial area, as provided by sections 13-1111
5 to 13-1120, the owners of such designated area shall provide at
6 their expense for water, electricity, sewer, and fire and police
7 protection.

8 Sec. 8. Section 13-1118, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 13-1118 The boundaries of the designated industrial area
11 may be changed to include other ~~tracts of~~ real estate tracts
12 containing not less than ten acres when contiguous to the area
13 designated as an industrial area by filing a petition, publishing
14 a notice thereof, and having a hearing on the petition in the
15 same manner as when an original petition to designate a contiguous
16 real estate tract as an industrial area is filed. The county board
17 of the county in which the petition was filed shall designate
18 such additional real estate tract in the industrial area to which
19 the real estate tract is to be attached if the board ~~shall find~~
20 finds that the conditions of the provisions of section 13-1114 are
21 complied with. After such designation by such county board, such
22 real estate tract that is designated as part of the industrial area
23 shall be governed by the provisions of sections 13-1111 to 13-1120
24 as though it was part of the original designated real estate tract
25 as an industrial area.

1 Sec. 9. Section 13-1119, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 13-1119 The boundaries of a designated industrial area
4 may be changed to exclude one or more real estate tracts, or parts
5 of the real estate tracts, ~~of real estate~~ within the area upon
6 the request of the owner or owners of the real estate tracts,
7 or parts of the real estate tracts, proposed to be excluded, and
8 by the owners filing a petition, publishing a notice thereof, and
9 having a hearing on the petition in the same manner as when an
10 original petition to designate a contiguous real estate tract as an
11 industrial area is filed. The county clerk of the county in which
12 the tract proposed to be excluded is situated shall cause a copy
13 of the published notice to be mailed by certified mail, within five
14 days after the first publication of the notice, to each of the
15 owners of record and other persons, if any, in possession of the
16 real estate tract not proposed to be excluded from the industrial
17 area, whose addresses are known to the county clerk. After the
18 hearing, if the county board shall find that the best interests
19 of the community and the industrial area will be served by the
20 exclusion of the real estate tracts, the county board shall enter
21 an order excluding the real estate tracts, or parts of the real
22 estate tracts, requested to be excluded. When a certified copy of
23 such order is filed with the register of deeds and county assessor
24 of the county or counties in which the real estate tract excluded
25 is located, such real estate tracts, or parts of the real estate

1 tracts, shall no longer be an industrial area.

2 Sec. 10. Section 13-1120, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 13-1120 When the owner or owners of all of the contiguous
5 real estate tracts ~~of real estate~~ designated as an industrial area
6 as provided by sections 13-1111 to 13-1118, shall file with the
7 county board of the county in which such real estate tracts are
8 ~~is~~ located, or the greater portion of such real estate tracts,
9 a petition requesting that the designation of the whole of the
10 real estate tracts as an industrial area be terminated, the county
11 board shall enter an order determining that such real estate tracts
12 shall no longer be considered an industrial area. When a certified
13 copy of such order is filed with the register of deeds and the
14 county assessor of the county or counties in which the real estate
15 tracts are ~~is~~ located, such real estate tracts shall no longer be
16 considered an industrial area. Beginning five years after the date
17 of the creation of any industrial area, the municipal governing
18 body having zoning jurisdiction over the designated industrial area
19 may file a written notice with the owner of any real estate tract,
20 or a portion of such real estate tract, that carries the industrial
21 area designation indicating that the municipality will terminate
22 the industrial area designation ten years after the date of the
23 filing of such notice. A copy of the notice shall be filed with
24 the register of deeds and the county clerk of the county in which
25 the industrial area is located and the original notice shall be

1 served upon the real estate tract owner by certified mail and after
2 publication of the notice on at least one occasion in a newspaper
3 published and of general circulation in the county or counties in
4 which the real estate tract is located, and if no such newspaper
5 exists, the notice shall be published in a newspaper having a
6 general circulation therein.

7 Sec. 11. Section 13-1121, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 13-1121 Beginning in 1980 and every even-numbered year
10 thereafter during the month of March, the appropriate county board
11 may, of its own volition or shall, at the request of the municipal
12 governing body having zoning jurisdiction over the designated
13 industrial ~~tract,~~ area, review any or all real estate tracts, or
14 portions of such real estate tracts, contained in any industrial
15 areas area in its jurisdiction. When the review is at the request
16 of the municipal governing body having zoning jurisdiction over the
17 designated industrial ~~tract,~~ area, the county board shall notify
18 such municipal governing body of the date, time, and location of
19 the review hearing. ~~If the~~ The county board ~~determines during the~~
20 ~~review that there is a problem with the industrial area designation~~
21 shall notify the owner of any real estate tract, or a portion of
22 such real estate tract, the county board shall give notice of a
23 such review hearing. The notice shall be sent to the real estate
24 tract owner by certified mail and shall be published on at least
25 one occasion in a newspaper published and of general circulation in

1 the county or counties in which the real estate tract is located,
2 and if no such newspaper exists, the notice shall be published in a
3 newspaper having a general circulation therein. If the owner of the
4 real estate tract is by registered or certified mail to the owners
5 of the tract, or a portion of such tract, if such owners are known,
6 within ninety days prior to the hearing, and if the owners are not
7 known or cannot be located, then by publishing the county board
8 shall publish a notice three successive weeks in some a newspaper
9 published and of general circulation in the county or counties in
10 which the real estate tract is located, and if no such newspaper
11 is published in the county, such notice shall be published in some
12 a newspaper having a general circulation in such county. If after
13 the hearing the county board finds that the industrial area or
14 a portion thereof is no longer suitable for industrial purposes,
15 or The review hearing shall be held within ninety days after the
16 request from the municipal governing body. At the hearing, the
17 county board shall determine if the real estate tract is no longer
18 eligible for the industrial area designation, is being used for a
19 nonindustrial enterprises, or enterprise, has had no improvements
20 or industrial buildings thereon within seven years from the date of
21 the original industrial area designation, or is not in compliance
22 with the zoning ordinances of any city or village municipality
23 exercising zoning control of it, or is not platted in accordance
24 with such zoning ordinances, or is no longer in compliance with
25 the definition of industry as set forth in section 13-1111. If the

1 county board determines that the real estate tract is no longer
2 eligible for the industrial area designation, the board shall enter
3 a written order removing such designation from the real estate
4 tract, or the portion of the real estate tract. ~~7 such county board~~
5 ~~shall remove the designation of industrial area from such tract~~
6 ~~or portion of such tract. Any~~ Until September 4, 2019, any real
7 estate tract or portion of such real estate tract used or reserved
8 for industry prior to August 24, 1979, shall not be removed from
9 the industrial area designation against the wishes of its owners
10 as long as the use of such real estate tract or portion continues
11 to be in compliance with the definition of industry as set forth
12 in section 13-1111. A certified copy of such written order shall
13 be filed with the register of deeds and the county assessor of the
14 county or counties in which the real estate is located.

15 Sec. 12. Original sections 13-1111, 13-1112, 13-1113,
16 13-1114, 13-1115, 13-1116, 13-1117, 13-1118, 13-1119, 13-1120, and
17 13-1121, Reissue Revised Statutes of Nebraska, are repealed.